

Rapaport Law Firm, PLLC | Attorneys at Law | 80 Eighth Avenue | Suite 206 | New York, NY 10011 | Tel 212.382.1600 | Fax 212.382.0920 | www.rapaportlaw.com

Rapaport Law Firm

Marc A. Rapaport*
Tel (212) 382-1600
Fax (212) 382-0920
mrapaport@rapaportlaw.com

*Member NY & NJ Bars

December 14, 2022

BY ECF

Hon. Jennifer L. Rochon
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: Gilberto Trinidad et al. v. 62 Realty, LLC, et al.
Case No. 22-cv-00101 (JMF) (GWG)

Dear Judge Rochon:

We are counsel for plaintiffs in the above-referenced case, wherein plaintiffs assert wage claims under the FLSA and NYLL. We write jointly with defendants to inform the Court that the parties have reached a settlement in principle, subject to memorialization in a written settlement agreement, upon participating in a settlement conference before the Hon. Gabriel W. Gorenstein, U.S.M.J. on December 5, 2022. The settlement in principle does not cover plaintiffs' claims for attorneys' fees and costs, which the parties have deferred for determination by the Court, absent the ability of the parties to come to an agreement on the issue.

The parties request that the Court set a deadline of December 28, 2022 to submit an executed settlement agreement, together with a joint letter application for settlement approval pursuant to *Cheeks v. Freeport Pancake House, Inc.*, 796 F. 3d 199 (2d Cir. 2015).

With respect to the unresolved issue of attorneys' fees and costs, the parties request that the Court set a briefing schedule as follows: (i) December 29, 2022 for plaintiffs to file their motion for legal fees and costs; (ii) January 20, 2023 for defendants' opposition papers; and February 3, 2023 for plaintiffs' reply papers in further support.

Defendants also request that Plaintiffs' counsel provide a copy of their history bill no later than December 20, 2022 so that the parties may meet and confer concerning an appropriate amount for Plaintiffs' legal fees in an effort to avoid motion practice.

The parties also request that defendants' motion to dismiss [ECF 65] be adjourned *sine die* pending the anticipated joint letter motion for settlement approval.

Honorable Jennifer L. Rochon
United States District Judge
December 14, 2022

We thank the Court for its time and attention to this case.

Respectfully submitted,

/s/

Marc A. Rapaport

cc: Alan Smikun, Esq. (*Via ECF only*)
Emanuel Kataev, Esq. (*Via ECF only*)

In light of the parties' settlement in principle, IT IS HEREBY ORDERED that Defendants' motion for judgment on the pleadings [ECF No. 65] is DENIED as moot, without prejudice to renewal if the parties' settlement is not approved. IT IS FURTHER ORDERED that the briefing schedules set forth in the parties' submission are adopted.

By separate Order to be entered today, the Court will refer the motions for settlement approval and attorneys' fees to Magistrate Judge Gorenstein for a report and recommendation.

The parties shall discuss whether they are willing to consent, under 28 U.S.C. § 636(c), to conducting all further proceedings before Magistrate Judge Gorenstein. If both parties consent, they must, no later than **December 23, 2022**, submit to the Court a fully executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form, a copy of which is available at <http://nysd.uscourts.gov/file/forms/consent-to-proceed-before-us-magistrate-judge>.

Dated: December 15, 2022
New York, New York

SO ORDERED



JENNIFER L. ROCHON
United States District Judge